

FILED  
FEB - 8 2011

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

MORGHAN SOE MIN,

CV. 10-1216-KI

Plaintiff,

ORDER

v.

OSCI, et al.,

Defendants.

KING, Judge

Plaintiff, an inmate at the Eastern Oregon Correctional Institution, brings this civil rights action *pro se*. On December 8, 2010, I granted plaintiff's applications to proceed *in forma pauperis* (#1 & #6) and dismissed his amended complaint (#4) on the basis that he named as defendants state agencies entitled to sovereign immunity. Additionally, I advised plaintiff that some of his allegations appeared time barred, and that he must name as defendants those individuals personally responsible for the alleged constitutional violations.

Shortly thereafter, on or about December 16, 2010, plaintiff mailed a second amended complaint and a third application to proceed *in forma pauperis*. Plaintiff's second amended complaint again lists only state agencies in its caption, although he names individual defendants at page three of the complaint. See Fed. R. Civ. P. 10(a) (directing that all defendants be listed in the caption of the complaint).

Plaintiff again has failed to identify how any of the individual defendants are personally responsible for the violation of plaintiff's constitutional rights. Moreover, plaintiff continues to generally allege that his rights were violated from 2006 to 2010. Accordingly, for the reasons set forth in my previous order, plaintiff's second amended complaint is dismissed for failure to state a claim.

However, because this court is concerned that plaintiff submitted his second amended complaint before receiving my dismissal order, plaintiff shall be given leave to submit a third amended complaint. Plaintiff is advised that failure to file a third amended complaint, curing the deficiencies noted by the court, shall result in the dismissal of this proceeding.

#### **CONCLUSION**

Based on the foregoing, plaintiff's second amended complaint (#8) is DISMISSED, for failure to state a claim. Plaintiff's third application to proceed *in forma pauperis* (#9) is DENIED AS MOOT.

Plaintiff shall file a third amended complaint within 30 days of the date of this order.

The Clerk of the Court is DIRECTED to send plaintiff a copy of my Order to Proceed *In Forma Pauperis* and to Dismiss (#7) with this order.

IT IS SO ORDERED.

DATED this 8th day of February, 2011.

  
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Garr M. King  
United States District Judge